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Federal Communications Commission
Washington, D.C. 20554

SEP 25 1997

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of

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Defining Primary Lines

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CC Docket No. 97-181

**COMMENTS
OF THE
UNITED STATES TELEPHONE ASSOCIATION**

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SUMMARY

The Commission's proposal to require self-certification of primary residential lines by customers should not be adopted. Self-certification would be administratively burdensome and extremely costly as price cap LECs would be required to individually contact each customer to obtain the designation. USTA estimates that the cost, assuming an embedded customer base of approximately 100 million residence lines for price cap carriers, would be close to \$80 million. Such an undertaking could never be completed by January 1, 1998. Further, customer confusion and gaming would be increased.

Instead, the Commission should require price cap LECs to identify primary residential lines on the basis of the billing account at the same serving address. Each current residential account would be designated a primary line. This method relies on accurate, historical data which is already maintained, thus reducing the administrative burden and the potential costs. This will facilitate efforts to verify line counts, thus eliminating the need for the additional audits, models and enforcement mechanisms proposed by the Commission. It would not require the price cap LEC to try to determine whether a particular residence was a primary residence or a vacation home.

This method would also be customer-friendly. It would not penalize multiple subscribers with separate accounts who reside with other members of their families. It would preserve customer privacy and prevent customers from being forced to relate information about the living arrangements at a particular service address. Finally, it would not rely on customer interpretations of arcane Commission rules.

Defining primary lines on the basis of billing account will also eliminate the need for all of the additional regulations which the Commission has proposed. Price Cap LECs could notify customers through a bill insert or message regarding the designation and the applicable charges. These companies should be permitted to develop their own inserts or messages, since they have extensive experience providing information to their customers and can accommodate unique circumstances which must be addressed. There is no reason for the Commission to mandate a uniform message.

There is no need to develop a national database, which would be costly to develop and would have to comply with CPNI requirements. Current auditing authority should not be expanded. However, any audit conducted to verify line counts should not include examination of actual customer records. Further, it would be illogical to use a model based solely on assumptions as a means to verify actual data.

Finally, regardless of the definition adopted, price cap LECs will need sufficient time, up to one year, in order to develop the procedures necessary to implement the Commission's requirements. During that period, the price cap LECs could continue to assess the same charge for primary and non-primary lines. The Commission should not adopt any type of interim arrangement which would require changes to current systems which would have to be further altered in order to implement the permanent solution.

In the Matter of)
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Defining Primary Lines) CC Docket No. 97-181

Pursuant to the Access Charge Reform Order,¹ the Commission required price cap LECs to assess a presubscribed interexchange carrier charge (PICC) and to raise the subscriber line charge (SLC) cap for additional residential and multi-line business lines. In 1998, the SLCs and PICCs for primary residential and single line business lines will be lower than the charges for additional residential and multi-line business lines. The Commission did not discuss how price cap LECs were to identify primary versus non-primary residential lines since that issue was to be

¹Access Charge Reform, Price Cap Performance Review for Local Exchange Carriers, Transport Rate Structure and Pricing, End User Common Line Charges, CC Docket Nos. 96-262, 94-1, 91-213 and 95-72, *First Report and Order*, FCC 97-158 (rel. May 16, 1997). [Access Charge Reform Order].

addressed within the context of its universal service proceeding.²

USTA expressed concern in both proceedings that identifying non-primary residential lines would be an administrative nightmare of the most terrifying proportions.³ USTA pointed out that LECs do not currently possess records that discretely identify non-primary residence lines. With an embedded base of approximately 100 million residence lines for price cap LECs, the time and expense of reclassifying every such line would be prohibitive. USTA stated that LECs do not have any practical way to validate customer designations. Even if identified, the associated changes to LEC billing systems would be costly and difficult to implement. And, USTA noted that it is unlikely that anything could be completed by January 1, 1998. USTA also raised concerns regarding the incorrect signals which would be reflected in the marketplace as customers seek to avoid additional charges which only incumbent price cap LECs must impose in order to recover the costs of providing service. USTA urged the Commission to reject the Joint Board's recommendation to differentiate primary residential and non-primary residential lines. At the very least, USTA hoped that the Commission would consider the administrative

²Federal-State Joint Board on Universal Service, CC Docket No. 96-45, *Report and Order*, FCC 97-157 (rel. May 8, 1997). The Joint Board recommended that only primary residential lines and single line business lines be eligible for universal service support. However, the Commission, recognizing the potential detrimental impact on rural customers, did not adopt that recommendation. While the definition of non-primary residential lines which USTA recommends could be utilized by all LECs, USTA maintains its strong support of the Commission's decision to permit rural LECs to continue to receive universal service support for all lines. See, NPRM at ¶4.

³See, USTA Petition for Reconsideration and/or Clarification, Federal-State Joint Board on Universal Service, CC Docket No. 96-45, filed July 17, 1997.

burdens associated with such an undertaking and attempt to lessen the complexity, customer confusion and expense which inevitably would result from differentiating primary and non-primary residential lines. Further, USTA urged the Commission to provide sufficient time to implement the definition.⁴

Regrettably, the Commission has not accomplished either. Instead, the Commission is proposing to utilize customer self-certification to identify primary residential lines and carrier audits to verify the line counts. As will be discussed herein, USTA urges the Commission to abandon its proposal and adopt a definition which will be far easier and less expensive to implement and, thus, will lessen the administrative burdens. USTA reiterates its request that price cap LECs be given sufficient time to implement this change.

I. PRICE CAP LECs MUST BE PERMITTED SUFFICIENT TIME TO IMPLEMENT THE DEFINITION OF NON-PRIMARY RESIDENTIAL LINES.

While the Access Charge Order requires price cap LECs to begin assessing the PICC and the new SLC caps on January 1, 1998, because the Commission has not adopted a definition of non-primary residential lines, there is not sufficient time to implement those charges. Even if, the Commission adopts an Order in this proceeding before the end of the year, such charges cannot be implemented by January 1, 1998. Price cap LECs will need time to develop the new procedures necessary to identify and classify all residential lines and to train their personnel to obtain that information, regardless of the definition and the methodology ultimately adopted.

⁴See, USTA Petition for Reconsideration and/or Clarification, Access Charge Reform Order, CC Docket No. 96-262, filed July 11, 1997.

Such activities must occur before the lines can actually be identified. Once trained, sufficient time must be allowed to perform the identification. It is prudent to allow price cap LECs sufficient time to incorporate the changes to current systems and procedures in order to attempt to avoid customer confusion and potential billing problems. Price cap LECs should be afforded up to one year after the definition is adopted to implement the new PICCs and SLC caps.⁵

During the interim period, primary and non-primary residential lines should continue to be subject to the same charge. This will not result in any net change to overall interstate revenues. More important, it will avoid the added burden and confusion of implementing “interim” billing arrangements and then making further changes to implement a “permanent” solution.

II. THE CURRENT DEFINITION OF SINGLE LINE BUSINESS SHOULD NOT BE CHANGED (NPRM at ¶ 5).

The current definition of single line business as specified in Section 69.104(h) of the Commission’s rules need not be altered. As the Commission itself notes, maintaining this definition will allow price cap LECs to assess the correct SLCs and PICCs without determining whether a customer receives service from other carriers.

However, as USTA pointed out in its Petition for Reconsideration, the rules should be clarified to prevent customers from avoiding the application of the multi-line business SLC. Section 69.152(e)(3) of the rules ensures that when a LEC provides a residential line to a reseller

⁵More time may be required if the Commission’s proposal for end user self-certification is adopted.

which is sold to a residence that already has a primary line, the LEC may collect the non-primary residential charge from the reseller. This rule appropriately eliminates the incentive for a customer to purchase additional lines from a reseller merely to avoid payment of the non-primary charge. The rules do not assure the same outcome in the case of business lines.

Section 69.152(i) states that a line shall be deemed to be a single line business line if the customer does not pay a residential rate and does not obtain more than one line from a particular telephone company. The Commission should clarify that the multi-line business SLC applies when a reseller provides an additional line to a single-line business customer.

As requested in its Petition in order to ensure the proper application of the SLC to business customers, USTA recommends that the Commission incorporate the following language in Section 69.152(i) (changes are in italics):

“A line shall be deemed to be a single line business subscriber line if the subscriber pays a rate that is not described as a residential rate in the local exchange tariff or public rate schedule and does not obtain more than one such line from a particular telephone company. When an incumbent local exchange carrier provides a business line to another carrier so that the other carrier may resell that business line to a business that already receives a single business line, the incumbent local exchange carrier may collect the Multi-line business charge described in (b)(3) from the reseller carrier. When such resale takes place, all lines provided to the business customer shall be considered Multi-line business lines for purposes of application of the SLC.

III. PRIMARY RESIDENTIAL LINES SHOULD BE IDENTIFIED ON THE BASIS OF BILLING ACCOUNT (NPRM at ¶ 6).

USTA proposes that existing primary residential lines be identified on the basis of the billing account at the same serving address. Each current residential account would be designated a primary line. Accordingly, the primary residential line would be defined as the

residential subscriber line of the billing name customer, at a single service address, which constitutes any (or all) of the following: the only line, the first installed line, the line designated by a new billing name customer through the service ordering process, and/or the line provided by the price cap LEC which meets any of the above criteria when the customer has another line obtained from a reseller of the price cap LEC's services. Pursuant to USTA's definition, additional lines provided to the same billing name and serving address would be treated as non-primary lines.

Further, as will be explained below, price cap LECs could simply notify their existing customer base through a bill message or insert of the definition and the charges involved. Identification of lines for new customers could be accomplished through the service ordering process.

USTA believes that this methodology to identify primary residential lines is far superior to those proposed in the NPRM. The use of billing accounts will enable price cap LECs to identify their embedded customer base in a less burdensome manner which is also consistent with the connection of new telephone service. It will enable price cap LECs to utilize existing billing records which are already maintained, thereby reducing the administrative burdens. The use of such accurate, historical data will also facilitate efforts to verify line counts. It does not require the LEC to undertake the nearly impossible task of trying to determine whether a particular residence is a primary residence or a vacation home since a line to a second home would also be treated as a primary line. Thus, it is easier to implement and administer than any of the alternatives.

More important, USTA's definition is customer-friendly. It will not penalize multiple subscribers with separate accounts who reside at the same service address. For example, extended families, i.e., elderly parents who reside with their children and who have their own telephone line would be charged the lower SLC for a primary line. It also will not compromise customer integrity. It preserves the privacy of customers and does not require customers to relate information regarding the living arrangements at a particular service address. Finally, it does not rely on individual customer interpretation of arcane Commission rules, thereby reducing the potential for customer confusion.

IV. SELF-CERTIFICATION OF PRIMARY LINES FOR CURRENT CUSTOMERS IS ADMINISTRATIVELY BURDENSOME AND SHOULD NOT BE ADOPTED (NPRM at ¶ 9).

Pursuant to USTA's proposed definition, the identification of the primary residential line would only require looking up the customer's service account and assigning the primary line. Identification of the particular subscriber or the primary residence would not be necessary. (NPRM at ¶ 8) Self-certification of primary lines for current customers would not be required. Self-certification would be administratively burdensome and should not be adopted. The expense of such an undertaking would be enormous, USTA estimates close to \$80 million⁶, as price cap LECs would be required to individually contact each customer to obtain the necessary information. With an embedded customer base of approximately 100 million residence lines for

⁶This estimate is based on the following assumptions: 100 million lines and 15 percent additional lines, a separate mailing to each additional line, a 2 percent response rate, a loaded wage rate, the number of follow-up calls needed and an average length of a follow-up call of 5 minutes.

price cap companies, this could never be accomplished within a reasonable time frame. Further, the risk of customer confusion and possible gaming would be increased by relying solely on customer self-certification. By permitting price cap LECs to utilize current billing records, such administrative burdens and the time required to identify primary lines would be dramatically reduced.

V. NEW REGULATIONS TO EDUCATE CUSTOMERS ARE NOT NEEDED (NPRM at ¶ 10).

There is no need for new regulations regarding how customers should be notified regarding the designation and charges for primary and non-primary lines. Price cap LECs should be permitted to develop their own bill messages or inserts which would provide customers with the necessary information regarding why identifying primary lines is required and how LECs intend to determine such information using current customer billing accounts.

In developing rules regarding Caller ID, the Commission did not require detailed, Commission-prescribed customer education requirements. The Commission found that carriers should draw on their own experience as to the most effective way to inform their customers that their number may be revealed to a called party. The Commission noted that its complaint process would provide a mechanism for assuring that carriers provide the necessary information.⁷ The Commission should exercise the same regulatory restraint in this instance. Uniformity is not required, as price cap LECs already have extensive experience providing information to their

⁷Rules and Policies Regarding Calling Number Identification Service--Caller ID, CC Docket No. 91-281, *Memorandum Opinion and Order on Reconsideration, Second Report and Order and Third Notice of Proposed Rulemaking*, 10 FCC Rcd 11749, 11749-50 (1995).

customers and are well aware of unique circumstances, such as language barriers, which must be addressed.

Further, no additional procedures need be developed to be utilized when a customer switches service to a CLEC. (NPRM at ¶ 10) Price cap LECs which lose an account would no longer assess the SLC or PICC on that line. For facilities-based carriers, procedures are not required since CLECs are not required to charge either SLCs or PICCs.

Resellers should certify which of the lines resold to customers are primary lines. (NPRM at ¶ 11) CLECs will have access to such information through the price cap LEC OSS systems. The price cap LECs should not be required to obtain that information. Price cap LECs do not have the resources to determine the proper designation of resold lines and it is unlikely that resellers would even provide such information to the price cap LEC.

Finally, there is no reason to expand the existing CARE system, which depends on the incumbent LECs' Customer Record Databases, or to create a new, national database for the purpose of identifying primary lines. (NPRM at ¶¶ 12-14) The sole purpose of the CARE system is to facilitate IXC efforts to identify the presubscribed interexchange carrier. As the Commission tentatively concludes, there is no indication that expanding the CARE system or creating a new, national database is necessary to implement the Access Charge Reform Order. Further, the costs which would have to be incurred to expand and/or create a national database would outweigh any possible benefit and could not be recovered.

The use of databases as well as customer self-certification also raises concerns regarding customer privacy. (NPRM at ¶ 16) It is clear that the designation of primary lines constitutes

customer proprietary network information (CPNI) under Section 222 of the 1996 Act and the protection required for such information must be observed.

VI. NO NEW REGULATIONS ARE NEEDED TO VERIFY PRIMARY RESIDENTIAL LINE INFORMATION (NPRM at ¶¶ 17-22).

The Commission proposes to conduct audits and to implement specific enforcement mechanisms which it claims are necessary to deter fraud and/or misrepresentation by either carriers or consumers. Such claims are unsupported and unwarranted.

From a practical standpoint, neither the Commission nor the price cap LEC will be able to prevent fraud or misrepresentation, particularly for an identification methodology which relies solely on customer self-certification. In fact, given the issues and concerns raised in the NPRM, it appears that the Commission was premature, at best, in requiring different PICCs and SLCs for primary versus non-primary residential lines before the issues and concerns raised regarding how such a requirement could be implemented are resolved. USTA, too, is concerned about the likely outcome of a system which requests self-certification when the response will determine whether customers are charged more for their local telephone service. No regulation imposed on price cap LECs will deter improper designations by customers. That is why USTA has proposed identification of residential primary lines based on billing accounts, which will deter gaming by customers and is easily verified. However, if the Commission proceeds to differentiate these charges based on customer self-certification, price cap LECs should be afforded an optional, one-time true-up process under which a price cap LEC could seek prospective rate realignments when actual demand for services differs significantly from expected demand due to unanticipated and

unavoidable fraud and misrepresentation.

Further, price cap LECs have no incentive to misrepresent the number of primary residential lines. Price cap LECs will not be able to “make up the difference in other rates”, as alleged by the Commission, if they misreport secondary lines as primary lines. While it is true that the differentiation of charges will place incumbent LECs at a competitive disadvantage, the current price cap rules do not permit these LECs to raise other rates in order to make up competitive losses. Further, there is no evidence that the PICCs for primary residential lines will indeed be greater than the PICCs for secondary lines by the year 2000. In any event, the use of billing accounts would prevent price cap LECs from misreporting primary residential lines.

The Commission has sufficient authority to conduct audits to verify line counts. However, the Commission should ensure that such audits and comply with the CPNI requirements. The auditor should only be permitted to access information to determine how the identification of the primary line was accomplished. There is no need to access actual customer records. In addition, given the administrative costs of audits, which ultimately are borne by customers, the Commission should exert such authority only when necessary, such as when a formal complaint has been filed.

The suggestion that the Hatfield model estimates of the number of primary lines be used as an audit trigger is ludicrous as the model is purely hypothetical. (NPRM at ¶ 19) It makes no sense to use a model based solely on assumptions to verify actual data. Further, the model could not be used in that way since none of the records in the Hatfield model are on an account basis or on an individual premises basis. The Hatfield model has been discredited by economists

throughout the nation as fundamentally flawed. The Joint Board refused to adopt it for purposes of developing universal service costs and it would be impossible to use as a means to verify primary residence lines.

The Commission does not need to impose additional sanctions on price cap LECs for failure to comply with its rules regarding the identification of primary residential lines. (NPRM at ¶ 20) Price cap LECs will be unable to serve as the “primary residential line police” particularly if customer self-certification of existing lines is adopted. The use of billing accounts will prevent gaming and will be easily verified. It will also be easily understood and accepted by customers.

As noted previously, price cap LECs should be permitted to develop their own message regarding the identification of primary residential lines, regardless of how the determination is made. (NPRM at ¶ 22) Certainly, USTA’s proposal facilitates administrative simplicity and permits LECs to use their considerable expertise in educating their customers in the most effective and efficient manner. The Commission’s proposed uniform disclosure statement is an unnecessary intrusion on the relationship between the carrier and its customer and should not be adopted.

VII. CONCLUSION.

The Commission should adopt a definition of primary residential line for price cap LECs which imposes the least administrative and cost burdens on LECs. By adopting a definition based on billing account, the Commission can accomplish that objective while maintaining its ability to verify the line counts. USTA urges the Commission to adopt USTA's proposal.

Respectfully submitted,

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